IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE NINTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE R.SUBHASH REDDY

WRIT PETITION NO : 3290 of 1995

Between:

1 K.Ramesh S/o. Yellaiah
R/o. Gareeb Nagar, Mallikunta, Warangal.
2 K. Kumaraswamy S/o. Narayana
R/o. Gareeb Nagar, Mallikunta, Warangal.
3 K. Kattaiah S/o. Peelaiah
R/o. Gareeb Nagar, Mallikunta, Warangal.
4 P. Mohan Rao S/o. Govindu
R/o. Gareeb Nagar, Mallikunta, Warangal.
5 M. Gattaiah S/o. Komuraiah
R/o. Gareeb Nagar, Mallikunta, Warangal.
6 K. Kornel S/o. Komuraiah
R/o. Gareeb Nagar, Mallikunta, Warangal.
7 M. Narsaiah S/o. Venkataiah
R/o. Gareeb Nagar, Mallikunta, Warangal.
8 I. Yellaiah S/o. Poshaiah
R/o. Gareeb Nagar, Mallikunta, Warangal.
9 P. Kumara Swamy S/o. Komuraiah
R/o. Gareeb Nagar, Mallikunta, Warangal.
10 P. Prasad S/o. Prakasam
R/o. Gareeb Nagar, Mallikunta, Warangal.
11 P. Korenel S/o. Prakasam
R/o. Gareeb Nagar, Mallikunta, Warangal.
12 P. Ravi S/o. Govindu
R/o. Gareeb Nagar, Mallikunta, Warangal.
13 B. Venkataiah S/o. Yellaiah
R/o. Gareeb Nagar, Mallikunta, Warangal.
14 A. Purnamma d/o. Balaiah
R/o. Gareeb Nagar, Mallikunta, Warangal.
15 P. Ramesh S/o. Govindu
R/o. Gareeb Nagar, Mallikunta, Warangal.
16 P. Ramesh S/o. Santhaiah
R/o. Gareeb Nagar, Mallikunta, Warangal.
17 K. Yellaiah S/o. Yellaiah
R/o. Gareeb Nagar, Mallikunta, Warangal.
18 A. Mogili S/o. Papaiah

R/o. Gareeb Nagar, Mallikunta, Warangal.

19 P. Arun Kumar S/o. Govindu
R/o. Gareeb Nagar, Mallikunta, Warangal.

20 Manchala Rajaiah S/o. Sailu
R/o. Gareeb Nagar, Mallikunta, Warangal.

21 Sam S/o. Veeraswamy
R/o. Gareeb Nagar, Mallikunta, Warangal.

..... PETITIONERS

AND

1 The Government of A.P., Rep. by its Secretary,

Revenue Department, Secretariat of A.P. Hyderabad.

2 The District Collector, Warangal.

3 The Mandal Revenue Officer, Gesukonda Mandal, Warangal District.

4 The Station House Officer, Milkani P.S., Hanumakonda, Warangal.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue a Writ of Mandamus or other order or direction in the nature of a Writ declaring the action of respondents 3 & 4 demolishing the houses of the petitioners arbitrarily and illegally further directing them to not interfere into the peaceful possession of the petitioners' houses and land in S.No.95 at Christian Colony, Gandhinagar (Mallikunta Cheruvu), Warangal and direct the respondents to pay the compensation a sum of Rs.50,000/- each in the interest of justice.

Counsel for Petitioners: MR. B.NALIN KUMAR

Counsel for Respondents 1 to 3: GOVERNMENT PLEADER FOR REVENUE (ASSIGNMENTS).

Counsel for Respondent No.4: None

The Court made the following:

ORAL ORDER:

This writ petition is filed questioning the action of the respondents 3 and 4 in demolishing the houses of the petitioners situated in Sy.No.95 of Christian Colony, Gandhinagar, Warangal as illegal and arbitrary.

The case of the petitioners, who claim to be poor people, is that they have occupied the Government land in Sy.No.95 of Gandhinagar in Warangal, raised huts therein and have been residing therein for the last years 45 years. Thereafter, the Government got constructed pucca houses in place of the huts in the year 1972. While so, it is the grievance of the petitioners that the respondents started demolition of their houses in the said land without any notice to them. Hence, this writ petition.

It is stated in the counter affidavit filed on behalf of respondents 1 to 3 that the land in Sy.No.95 of Korrekunta village is a Shikam land (tank bed) and as per the Rules in force Shikam land cannot be assigned for any purpose whatsoever. It is denied that they demolished the houses of the petitioners and it is stated that since the petitioners have illegally encroached the land in question, they were shown alternate government land in Sy.No.55 and thereafter the petitioners on their own removed the structures and left the mud walls and the respondents have removed the said walls. It is further stated that petitioners have agreed to shift from the land in question to the alternative land in Sy.No.55.

Heard the learned counsel for the petitioner and the learned Government Pleader for Revenue.

As much as it is stated in the counter affidavit that the land where the petitioners have put up structures is a Shikam (tank bed) land, they have no right to occupy the land in question on their own. So also, since it is an undisputed fact that the land in Sy.No.95 is classified as Shikam (tank bed) land of Mallikunta Cheruvu, the same cannot be assigned for any purpose as per the Board Standing Orders.

Further it is also stated in the counter affidavit, that the petitioners accepted to shift to the alternative site in Sy.No.55.

In that view of the matter, the writ petition is disposed of permitting the petitioners to make applications for alternative site in Sy.No.55, within a period of six weeks from the date of receipt of a copy of this order. If such applications are filed, the respondents are directed to consider such claims for allotment of alternative site in Sy.No.55 to the applicants, who are otherwise found eligible. Till the petitioners are provided alternative site, status quo as on today shall be continued. If the petitioners are entitled for any beneficial scheme for construction of houses, it is open for them to make an application in that regard and equally it is open for the respondents to consider the same in accordance with law.

With the above directions, the writ petition is disposed of. No costs.

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9-12-2004

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To

1. The Secretary, Revenue Department, Government of Andhra Pradesh,

Secretariat, Hyderabad.

2. The District Collector, Warangal District, Warangal.

3. The Mandal Revenue Officer, Geesukonda Mandal, Warangal District.

4. The Station House Officer, Milkani P.S., Hanumakonda, Warangal.

5. Two CCs to the Government Pleader for Revenue (Assignments),

High Court Buildings, Hyderabad (O.U.T).

6. Two CD copies.